REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1 – 16 are pending in the application. Claims 1 – 16 have been rejected. Claim 9 has been amended.

Applicants respectfully assert that the amendments to the claims add no new matter.

CLAIM REJECTIONS

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 1 – 16 under 35 U.S.C. § 102(b), as being anticipated by Kung et al. (US 6,574,739).

Applicants respectfully traverse this rejection in view of the remarks that follow.

Kung et al. describes a CPU activity monitoring circuit. In the Abstract, Kung et al. states:

"A CPU activity monitoring circuit is electrically connected to a CPU. This circuit monitors the state of a bus signal line on the CPU, as there is a strong correlation between the state of this line and the processing load of the CPU. This circuit can interrupt the processor to force an interrupt service call to a BIOS routine. This BIOS routine will adjust the internal clock frequency, or internal operating voltage, of the CPU based upon the perceived processing load of the CPU. "

Note that the monitoring is done with a "circuit" which is "electrically connected to a CPU". Independent claims 1 and 9, however, require "a performance monitor forming part of an operating system controlling said CPU." Kung et al.'s monitor is not part of the operating system; it is a hardware device which is "electrically connected" to the CPU. It thus cannot be part of the operating system of the CPU.

Accordingly, Applicants respectfully assert that independent claims 1 and 9 are allowable. Claims 2 – 8 and 10 – 16 depend from, directly or indirectly, claims 1 and 9, and therefore include all the limitations of those claims. Therefore, Applicants respectfully assert that claims 2 – 8 and 10 – 16 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections to claims 1 - 16.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

No fee is believed due. However, The United States Patent and Trademark Office is hereby authorized to charge Deposit Account 501380 for any fee which is necessary in connection with the filing of this amendment.

Favorable action on this amendment is courteously solicited.

Respectfully submitted,

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